

Message

From: Hurlid, Kathy [Hurlid.Kathy@epa.gov]
Sent: 3/12/2018 12:41:42 PM
To: Goodin, John [Goodin.John@epa.gov]; Robiou, Grace [Robiou.Grace@epa.gov]
CC: Weiler, Katherine [Weiler.Katherine@epa.gov]; Eisenberg, Mindy [Eisenberg.Mindy@epa.gov]; Frazer, Brian [Frazer.Brian@epa.gov]; McDavit, Michael W. [Mcdavit.Michael@epa.gov]
Subject: Re: Update on 404 assumption

So, the update on these talking points:

Michigan:

* EPA R5 objected to the Aquilla Back 40 permit. RA is aware and onboard with the objection. EPA comments were due March 9th. This is our first objection to this permit; we understand the state also had concerns. State will work with permittee to address concerns. This is the mining permit along the Menominee River the Menominee tribe of WI was suing to have transferred to the USACE. Ex. 5 Deliberative Process (DP)

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* Brief on Menominee lawsuit to be filed by end of March. No update on DOJ's approach to the Menominee Tribe's lawsuit. OGC is letting DOJ know about the objection to the permit.

Florida:

* FL passed authorizing legislation last week to assume the program and modify statutes for consistency with CWA.

* Outstanding issues: Retained waters not identified by USACE yet; Section 7 consultation on state issued permits; simple negligence standard on criminal enforcement.

* Heard from USACE that they are awaiting response from the state regarding signing an IPA to have 30+ FDEP staff work for the USACE to conduct navigability studies so the USACE can identify retained waters.

Arizona: Legislature passed authorizing legislation - passed both house and senate. EPA staff has been fielding questions from AZDEQ staff on language and suggesting edits that ensure broad authority to implement the program.

Vermont: R1 is headed to VT to discuss assumption at the end of the month.

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Regulatory Development: Rule is currently being tiered - Thank you Sandy Evalenko; we have volunteers for the workgroup from other AAs and regional offices. putting contract in place for facilitation and analytical blueprint needs.

From: Goodin, John
Sent: Friday, March 9, 2018 1:30 PM
To: Robiou, Grace
Cc: Weiler, Katherine; Eisenberg, Mindy; Frazer, Brian; Hurlid, Kathy; McDavit, Michael W.
Subject: Re: Update on 404 assumption

Folks- little surprised to see the MI item below- I thought epa comments weren't due till the end of the month and we'd have an opportunity to raise w Lee or Dave since objections are not common. I will definitely need a bit more info before Monday staff on that one

Thanks

Sent from my iPhone

On Mar 9, 2018, at 10:00 AM, Robiou, Grace <Robiou.Grace@epa.gov<mailto:Robiou.Grace@epa.gov>> wrote:

John

Mindy asked me to send you this update on 404 Assumption, in case you want to use it at relevant meetings next week. I copy Katherine to facilitate integration into your meeting packet, if you desire.

Grace

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Michigan:

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EPA R5 objected to the Aquilla Back 40 permit. This is the mining permit along the Menominee River the Menominee tribe of WI was suing to have transferred to the USACE.

Ex. 5 Deliberative Process (DP)

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No update on DOJ's approach to the Menominee Tribe's lawsuit.

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Florida:

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Heard from USACE that they are awaiting response from the state regarding signing an IPA to have 30+ FDEP staff work for the USACE to conduct navigability studies so the USACE can identify retained waters.

*

Outstanding issues: Section 7 consultation on state issued permits; simple negligence standard on criminal enforcement

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Arizona: Senate passed authorizing legislation. Hearings in AZ house.

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Vermont: R1 is headed to VT to discuss assumption at the end of the month.

*

Regulatory Development: Rule is currently being tiered - Thank you Sandy Evalenko; we have volunteers for the workgroup from other AAships and regional offices. putting contract in place for facilitation and analytical blueprint needs.